

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 ) MB Docket No. 05-  
311  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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**COMMENTS OF: Town of Lake Mills**

These Comments are filed by the Town of Lake Mills in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the Town of Lake Mills believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

The Town of Lake Mills also has a cable ordinance, which operates in conjunction with the franchise agreement, the terms of which are often negotiated with the cable company in conjunction with the franchise agreement. These documents will be collectively referred to as the "franchise" below.

**Cable Franchising in Our Community**

**Community Information**

The Town of Lake Mills is a town with a population of 2019. Our franchised cable provider is Charter Cable Company. Our community has negotiated cable franchises since [1990].

**Our Current Franchise**

Our current franchise began on [December 31, 2003] and expires on [December 31, 2005]. Under the statutory timeline laid out in the Federal Cable Act, the cable operator has a 6-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As

a result we will soon be negotiating a franchise renewal with the incumbent provider.

Our franchise requires the cable operator to pay a franchise fee to the town in the amount of 3% of the cable operator's revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

We require the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have 2 channels (or capacity) devoted to public access:

Our franchise requires that our PEG channels be supported with the cable franchise fees provided to us by the Cable Company.

Our franchise contains the following requirements regarding emergency alerts: Our local cable broadcasting operation which is located in the City of Lake Mills City Hall would issue emergency broadcasts when required at the local level. All other emergency broadcasts from a higher level, such as state and federal, would be broadcast by the cable company and subscribers would be notified where to tune into to hear such broadcasts. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency.

Our franchise contains the following customer service obligations, by which we are able to help ensure that the cable operator is treating our residents in accordance with federal standards and the terms it agreed to in its franchise. The local governments of the City of Lake Mills and The Town of Lake Mills have created a Joint Cable Regulatory Board that monitors all cable operations within our local area to assure customer satisfaction and to also assure that the cable provider is abiding by the Cable Franchise Agreement. The cable company is also required to maintain a business office and telephone listing in the Lake Mills area for the purpose of receiving inquiries or complaints from the customers and the general public. The cable company shall investigate all complaints within forty-eight (48) hours of their receipt and in good faith attempt to resolve them within forty-eight (48) hours after notice.

Our original franchise contained the following reasonable build schedule for the cable operator: The Grantee shall, make application to the Federal Communications Commission for all licenses and permits required by the Federal Communications Commission, including but not limited to licenses or permits necessary for the utilization of any microwave facilities to import permissible signals. The Grantee shall prosecute such applications diligently and faithfully in order that the necessary approvals can be obtained in the shortest possible time,

and in accordance with the construction schedule as set forth in the grant of the franchise. Within twenty (20) days after the franchise is granted by the town, the cable company is to begin negotiations with the utility companies for facility lease agreements. Prior to commencement of construction and prior to receipt of final approvals from the Federal Communications Commission for the establishment of the system, the Grantee shall conduct the necessary engineering studies so that construction can be commenced immediately upon final approval by the Federal Communications Commission. The Grantee is to begin construction of the cable system within thirty (30) days after the Lake Mills Light and Water Utility has given the Grantee written permission to attach the cable system to the utility poles.

Our franchise requires that the cable operator currently provide service to the following areas of our community: All dwellings, which are located within the boundaries of the Lake Mills Light and Water Utility. All dwellings located in an area, which is now, or in the future, has a residential dwelling unit density of 40 units per lineal mile. In areas not meeting the 40 dwelling units per mile, the Grantee shall provide, upon the request of five (5) or more potential subscribers desiring service, an estimate of the cost required to extend service to said subscribers. The Grantee shall then extend service upon request of said potential subscribers and receipt of payment of the estimated amount as may be satisfactory to the Grantee.

In order to ensure that our residents have access to current telecommunications technologies, our franchise contains the following requirements for upgrading of Facilities, Equipment, and Services: The Grantee shall upgrade its facilities, equipment, and services as subscriber's demands dictate so that its system is as advanced as the current state of technology with field-proven equipment will allow. The current cable company does provide cable modem and high-speed cable service to all customers receiving cable television service at this time.

Our franchise contains the following insurance and bonding requirements: The Grantee shall carry and at all times maintain on file with the Town Clerk and at all times keep in force a public liability policy of insurance, insuring such Grantee and the Town of Lake Mills against any liability arising from such installation and/or operation, with limits of liability of not less than \$500,000 for property damage and \$1,000,000 for any one person for personal injury, death, or damages attributable to the installation and/or operation of the cable communication system. There is also a requirement for a Surety Bond which states as follows: The Grantee shall maintain, and by its acceptance of this franchise specifically agrees, that it will maintain throughout the term of the franchise a faithful performance bond running to the Town of Lake Mills with a good and sufficient surety approved by the Town Attorney in the sum of \$100,000.

The cable franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is required to obtain a permit from the appropriate municipal office as well before it may access the public rights of way.

The franchise agreement provides for the following enforcement mechanisms by which we are able to ensure that the cable operator is abiding by its agreement: The Joint Cable Regulatory Board oversees the operations of the Grantee and keeps them accountable to the community.

### **The Franchising Process**

The cable system serving our community also serves the City of Lake Mills: In [year] our communities worked together to issue a cable franchise for the Charter Cable Company. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Our current franchise provides that changes in law which affect the rights or responsibilities of either party under this franchise agreement will be treated as follows: Our current agreement requires that the franchise is subject to current law as amended from time to time.

While a franchise is negotiated by the local government as a contract, the process provides the cable operator additional due process rights, and consequent additional obligations on the local government. For instance: If in the case of a disagreement between the Town of Lake Mills and the Cable Company our Ordinance requires the Town Board and the Joint Cable Regulatory Board hold Public Hearings on the issues before making any revocation, termination or cancellation of the Cable Franchise Agreement.

### **Competitive Cable Systems**

Our community granted a competitive franchise to Charter Cable a cable overbuilder, in [1990] and that provider is providing service in my community today. Our community has not denied any provider the opportunity to serve in our community and does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

### **Conclusions**

The local cable franchising process functions well in the Town of Lake Mills. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The Town of Lake Mills therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

Town of Lake Mills

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